

WESTFIELD-WASHINGTON

BOARD OF ZONING APPEALS

June 3, 2008

0806-VS-09

Exhibit 1

PETITION NUMBER:	0806-VS-09
SUBJECT SITE ADDRESS:	19814 Tomlinson Road
APPELLANT:	Mark Bettinger
REQUEST:	This variance of standard request is to decrease the north side yard setback from 30 feet to 12 feet in the AG-SF1 District (WC 16.04.030, B6b).
CURRENT ZONING:	AG-SF1
CURRENT LAND USE:	Residential
APPROXIMATE ACREAGE:	2.2
RELATED CASES:	None
EXHIBITS:	1. Staff Report, 06/03/08 2. Aerial Location Map, 06/03/08 3. Property Card, 06/03/08 4. Appellant's Application and Plans, 05/13/08
STAFF REVIEWER:	KMT

PROPERTY HISTORY

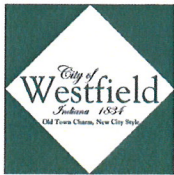
The subject property is part of a subdivision, Colonial Hills Estates, which was platted in September 1973, prior to zoning taking effect in Westfield-Washington Township (December 20, 1977). The lot does not meet all of the current AG-SF1 lot requirements; however, it is classified as legally non-conforming by meeting the criteria established in the Zoning Ordinance (WC 16.04.010, Y1). As such, no variances are necessary to legally establish the non-conforming lot.

There are no previous variances, special exceptions, subdivision plats, development plan, site plan, rezoning, or code enforcement cases for the subject property.

ANALYSIS

The submitted plans indicate that a 24'x28' (672 square feet) detached accessory structure would replace an existing 16'x16' (256 square feet) detached accessory structure. The submitted application indicates that the new structure would be located approximately in the same place as the existing and would be used as a garage, workshop, and storage space. As indicated on the submitted plans, the subject property is bound by mature evergreen trees along the northern and southern property lines. The property is currently improved with a single-family residence, an accessory structure, an in-ground swimming pool, and is served by a well and septic system.

The application indicates that locating the structure further west to comply with the current setback requirements is possible, but not preferred because of the added cost of extending the



driveway and because the current westward view from the residential structure would be compromised, if not blocked entirely. Additionally, extending the drive further would create more impervious surface on the subject property. Good planning practices encourage the reduction of impervious surfaces to improve environmental concerns such as erosion control and water quality management.

The Land Use Concept Map in the Westfield-Washington Township Comprehensive Plan recommends that this area be developed as suburban residential (p. 23). Accessory structures are permitted in the AG-SF1 District and are anticipated in suburban residential areas.

The Westfield Thoroughfare Plan identifies Tomlinson Road as a Collector Street, which typically yields a one hundred (100) foot right-of-way. Currently, the right-of-way is approximately thirty-five (35) feet in this area of Tomlinson Road.

PROCEDURAL

A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under IC 36-7-4-918.5 only upon a determination in writing that:

STANDARDS FOR VARIANCE REQUEST

1. The approval of such variance of development standard will not be injurious to the public health, safety, morals, and general welfare of the community:

Finding: It is unlikely that the approval of the requested variance of standard would be injurious to the public health, safety, morals, and general welfare of the community. The intent of building setbacks is to establish minimum yards, establish a minimum building line, and manage minimum building separation. By reducing the side yard of the proposed accessory structure, a minimum side yard of twelve feet (12') would exist, which is equal to or greater than the side yard setback requirements for SF-2, SF-3, SF-4 and SF-5. While more space is preferred, a twelve-foot (12') setback allows room to provide fire protection for the subject property and the adjoining property to the north.

2. The use and value of the area adjacent to the property included in the variance of development standard will not be affected in a substantially adverse manner:

Finding: Relief from the minimum side yard setback standard is not likely to affect the use and value of adjacent properties in a substantially adverse manner because it would not encroach upon the use and enjoyment of neighboring properties. The proposed accessory structure would be approximately 73 feet from the closest permanent structure on adjacent property. By locating the accessory structure eighteen feet (18') closer to the property line than the terms of the Zoning Ordinance require, the use and value of neighboring properties would not be negatively impacted.



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3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:

Finding: Strict adherence to the zoning ordinance will not result in a practical difficulty or prevent the use of the subject property. As it was intended when the property was platted, the subject property is currently used residentially with both attached and detached accessory space. The terms of the zoning ordinance are not preventing the use of the property for residential and associated accessory structures and uses. There is adequate space to the west of the existing swimming pool for a 26'x28' accessory structure to comply with all development standards, including setback requirements.

ADDITIONAL COMMENTS

None.

APPLICABLE CONDITIONS of APPROVAL

1. That no further encroachment of or reduction of the reduced side yard setback occur.

RECOMMENDATIONS

Deny this request based on the findings of this report.

If the Board sees fit to approve, approve with the applicable condition(s) listed above.

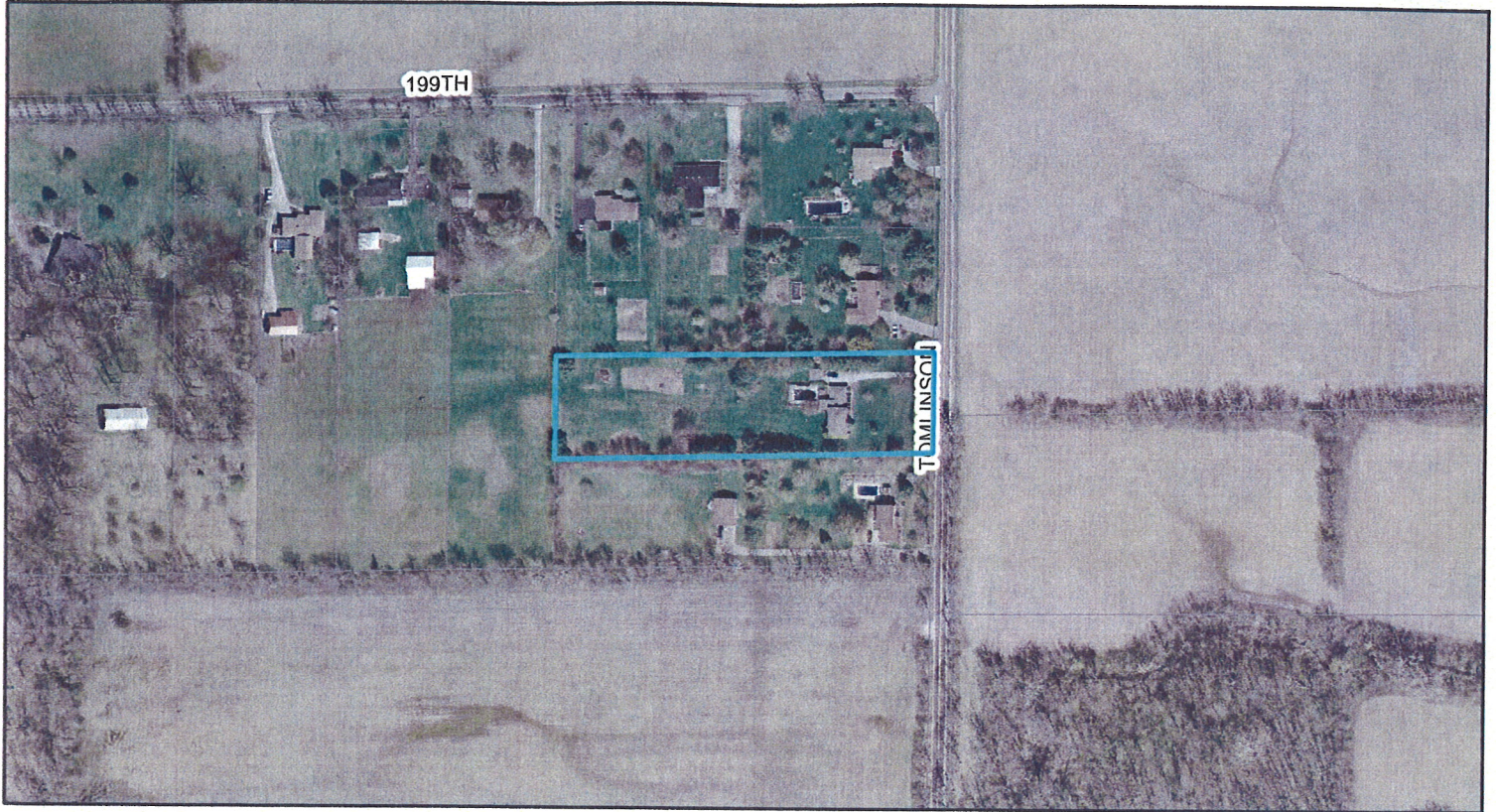
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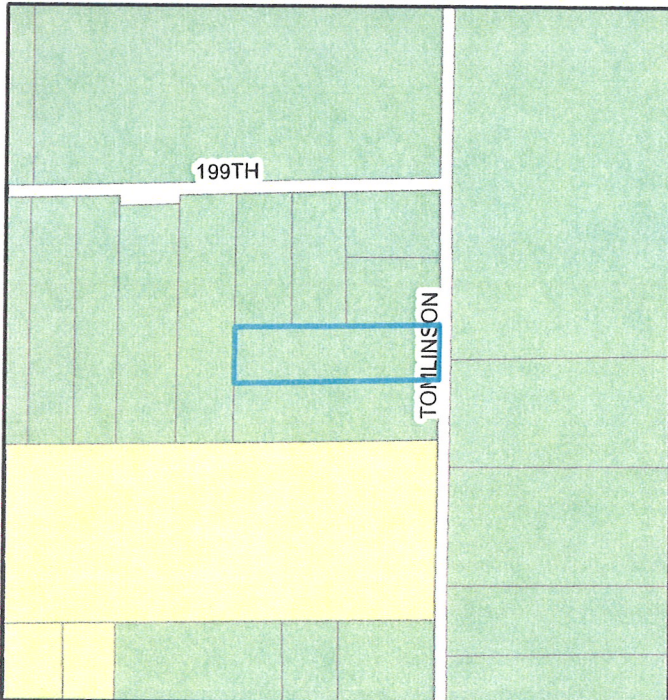
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08-05-24-00-00-032.000
19814 Tomlinson Road
Exhibit 2



Aerial Location Map

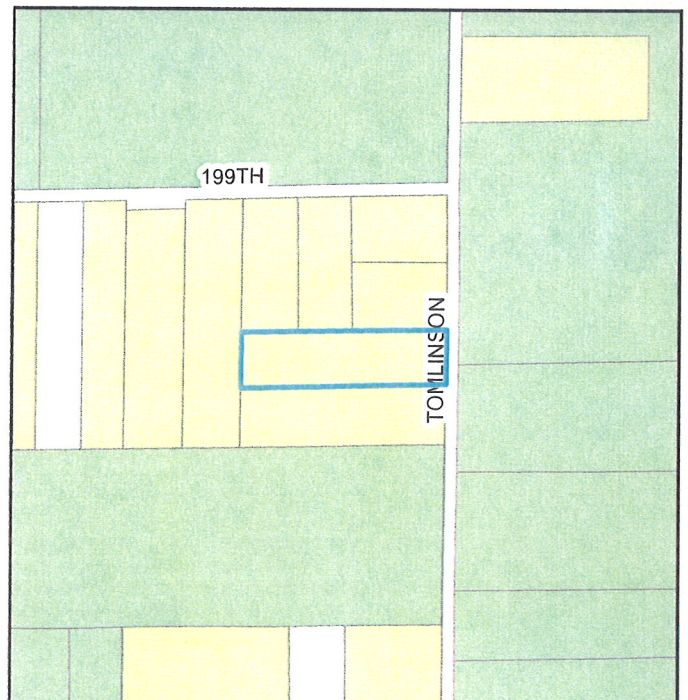


Zoning Map



- Agriculture Single Family 1
- Single Family 2

Existing Land Use Map



- Residential
- Agriculture
- Vacant

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Any, and all information contained on this web site report is the result of assessment data extracted on the most recent taxable year - **March 1, 2007**. Improvement characteristics may differ from those used to determine the total assessed value listed.

Summary Information - Parcel Number: 08-05-24-00-00-032.000**Property Data**

Parcel Location	19814 TOMLINSON RD, WESTFIELD
Taxing Unit	Washington
Legal Description	COLONIAL HILLS ESTATES 6/10
Section/Township/Range	S24 T19 R03
Subdivision Name	COLONIAL HILLS ESTATES
Lot and Block	Lot 1 Block
Acres	0
Effective Frontage	
Effective Depth	
Property Class	Res-1-Family 0 - 9.99 acres

Exterior Features and Out Buildings

1 Attached Garage, 1 Concrete Apron, 1 Pool, 1 Utility Shed,

1 Masonry Stoop, 2 Open Frame Porch, 1 Roof Extension Canopy, 1 Wood Deck,

Property Owner as of April 30, 2007

Bettinger, Mark K & Karen A Iseminger

Most Recent Valuation as of March 1, 2007

Assessed Value: Land	46000
Assessed Value: Improvements	168300
Total Assessed Value:	214300

Building 1, Card ID R01**Physical Characteristics**

Story Height	2.0
Attic	none
Basement	full
Crawl	none
Year Built	1978

Floor Construction

1.0 (first)	Slab
2.0 (second)	Sub and joists
Basement	Slab

Floor Finish

1.0 (first)	Vinyl tile, None
2.0 (second)	Carpet, None
Basement	None, None

Exterior Cover

1.0 (first)	3/6 Masonry
2.0 (second)	Wood siding
Basement	Masonry

Interior Finish

1.0 (first)	None
2.0 (second)	None
Basement	None

Accommodations

Finished Rooms	10
Bedrooms	4

Heating and Air Conditioning

Primary Heat	YES
Air Conditioning	YES

Plumbing

Full Baths	2
Partial Baths	1

Fireplace

Fireplace Stacks	YES
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Basement Rec Room

Rec Room Type	
Rec Room Square Footage	0

Area/Square Footage (based on exterior eave to eave area)

Building Level	Base Area	Approx. Finished Area
1.0 (first)	1064	1064
2.0 (second)	1040	1040
Basement	960	0

Garage

Garage Type	Framed
Garage Square Footage	576



TOWN OF WESTFIELD, INDIANA

Petition Number: 0806-VS-09

Date of Filing: 05/13/08

Application for VARIANCE OF DEVELOPMENT STANDARD
Westfield – Washington Township
Board of Zoning Appeals (BZA)

This application must be completed and filed with the Community Services Department of the Town of Westfield, Indiana in accordance with the meeting schedule.

1. Appellant's Name Mark K Bettinger
 Address 19814 Tomlinson Rd
Westfield IN 46074
 Telephone Number 317-758-4913
 E-Mail Address mkbettinger@comcast.net

2. Landowner's Name Same
 Address _____
 Telephone Number _____

3. *Representative _____
 *Address _____
 *Telephone Number _____
 *Email Address _____

*If the applicant is not presenting a petition, please provide contact information for the party representing the applicant.

4. Common description of property (address, location, etc.)
19814 Tomlinson Rd, Westfield, IN
Colonial Hills Subdivision

5. Legal description of property (list below or attach)
Parcel 0805240000032000
Lot 1, Colonial Hills Subdivision Estates
Page 61, Plat book 5

6. Complete description of the nature of the development standard variance applied for:

WC 16.04.030, B6b (SIDE YARD SETBACK)
12' side yard setback

7. **ALL SITE PLANS SHALL BE LEGIBLE AND DRAWN TO SCALE.** Site plans must accompany this application and must depict at a minimum:
- Lot(s) shape and dimensions;
 - Location and dimensions of existing and proposed structures;
 - Location and dimensions of existing and proposed points of ingress and egress; and
 - All topographic and natural features and/or other unusual characteristics associated with the property.
8. The Applicant must address the following criteria and establish at the public hearing that each of the following is true in order to obtain a favorable determination from the BZA.

No variance of development standard shall be granted unless the BZA finds all of the following to be true:

- a. That the approval of such variance of development standard will not be injurious to the public health, safety, morals, and general welfare of the community:

The new structure will be used as a workshop, garage and storage. It will not be used for a business and will not be used for activities or materials injurious to the public's health or safety.

- b. That the use and value of the area adjacent to the property included in the variance of development standard will not be affected in a substantially adverse manner:

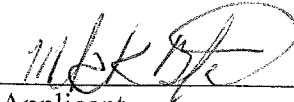
The property to the north, and closest to the variance request, is screened by trees and a 6" solid fence. In addition, we intend to match the style of the home and to leave trees to continue to screen the structure from the road.

- c. That the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:

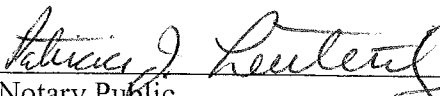
Relocating to meet the current zoning would require adding significant driveway and adversely impacting the view from the rear of the house. Moving the structure further from the property line would remove all greenspace to the north of the pool limit screening options to the south of the structure.

TOWN OF WESTFIELD, INDIANA

The Appellant hereby certifies that the information contained in and accompanying this application is true and correct.


Applicant

SUBSCRIBED AND SWORN TO ME THIS 13th DAY OF May, 2008.


Notary Public

My commission expires: 3/13/2016

